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EXAMINER

PARSLEY, DAVID J

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3643

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/828,943

Applicant(s)

GRISS, FRED D.

Examiner

David J Parsley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 10-22-04 and this action is non-final.

Claim Objections

2. Claim 6 is objected to because of the following informalities: in line 2 "...from to 0.025 inch 0.04 inch." should be - -from 0.025 inches to 0.04 inches.- - Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,982,049 to Yost or U.S. Patent No. 5,881,490 to Richardson.

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Referring to claim 1, Yost and Richardson disclose a fishing lure, comprising a shaft – at 22 or proximate 31' of Yost and – at 12 of Richardson, connected at one end to a hook – at 12-20 or 12'-20' of Yost and – at 20-24 or 26-28 of Richardson, a bead – at 24 or 26 or 24' or 26' of Yost and – at 40 of Richardson, having an opening sized to receive the shaft and slide freely thereon – see for example figures 1-2 of Yost and the drawing figure of Richardson, a wire – at 30-32 or 30'-32' of Yost and – at 34-38 of Richardson, connected at a first end to the shaft between the hook and the bead – see figures 1-2 of Yost and the drawing figure of Richardson, the second end of the wire extending through the opening of the bead – see figures 1-2 of Yost and the drawing figure of Richardson, a tube – at 26 or 28 or 26' or 28' of Yost and – at 30 of Richardson, covering the shaft between the hook and the bead and the second end of the wire adapted to be wrapped around a bait positioned on the tube to hold the bait on the tube while fishing – see for example figures 1-2 and column 2 lines 7-69 of Yost and the drawing figure and column 3 lines 5-57 of Richardson.

Claims 2, 5 and 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Richardson.

Referring to claim 2, Richardson discloses the wire is metal and of a material and gauge such that after it is wrapped around the bait it maintains its wrapped shape without the second end being anchored – see for example column 1 lines 56-67, column 2 lines 1-4 and column 3 lines 5-57.

Referring to claim 5, Richardson discloses the shaft – at 12 is formed of stainless steel – see for example columns 1-2.

Referring to claim 12, Richardson discloses a fishing lure comprising a means for holding bait thereon – at 30-40, comprising a tube – at 30, having a surface on which the bait may be mounted and a metal wire – at 34-38, connected at one end to the lure and its free end wrapped around the bait to hold it in place on the surface – see for example column 1 lines 56-67, column 2 lines 1-4 and column 3 lines 5-57.

Referring to claim 13, Richardson discloses the metal wire – at 34-38, is formed of a material and has a diameter such that when deformed it maintains its new shape so that when it is wrapped around the bait it holds the bait in place on the surface of without its free end being anchored and without the use of fish hooks piercing the bait – see for example the drawing figure and column 3 lines 5-57.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-3 and 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yost as applied to claim 1 above, and further in view of Richardson. Yost further discloses the wire is of a material and gauge such that after it is wrapped around the bait it maintains its wrapped shape without the second end being anchored – see for example figure 2. Yost does not disclose the wire is metal. Richardson does disclose the wire – at 34-38, is metal – see for example

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column 1 lines 56-67 and column 2 lines 1-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Yost and add the metal wire of Richardson, so as to allow for the device to be strong and durable for repeated use.

Referring to claim 3, Yost as modified by Richardson does not disclose the wire is floral wire having a diameter from 18 gauge to 32 gauge. However, it would have been obvious to one of ordinary skill in the art to take the device of Yost as modified by Richardson and use 18 to 32 gauge wire, so as to allow for the device to be both flexible and durable.

Referring to claim 5, Yost does not disclose the shaft is formed of stainless steel. Richardson does disclose the shaft – at 12 is formed of stainless steel – see for example columns 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Yost and add the stainless steel shaft of Richardson, so as to allow for the shaft to be less likely to erode in water.

Referring to claim 6, Yost as modified by Richardson does not disclose the shaft diameter is between 0.04 to 0.25 inches. However, it would have been obvious to one of ordinary skill in the art to take the device of Yost as modified by Richardson and add the shaft diameter of .04 to .25 inches in diameter, so as to allow for the lure to be both durable and lightweight.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson as applied to claim 2 above. Richardson does not disclose the wire is floral wire having a diameter from 18 gauge to 32 gauge. However, it would have been obvious to one of ordinary skill in the art to take the device of Richardson and use 18 to 32 gauge wire, so as to allow for the device to be both flexible and durable.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson as applied to claim 5 above. Richardson does not disclose the shaft diameter is between 0.04 to 0.25 inches. However, it would have been obvious to one of ordinary skill in the art to take the device of Richardson and add the shaft diameter of .025 to .04 inches in diameter, so as to allow for the lure to be both durable and lightweight.

Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson or Yost as modified by Richardson as applied to claims 1 or 2 above, and further in view of U.S. Patent No. 3,293,791 to Hinkson.

Referring to claim 4, Richardson and Yost as modified by Richardson do not disclose the core is coated in plastic. Hinkson does disclose the core – at 46, is coated in plastic – at 50. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Richardson or Yost as modified by Richardson and add the plastic coating of Hinkson, so as to allow for the core to be protected from outside elements and fish bites.

Referring to claim 9, Yost and Richardson do not disclose the wire is wrapped around the bait in a spiral toward the hook to hold the bait on the tube. Hinkson does disclose the wire – at 46, is wrapped around the bait – at 40, in a spiral toward the hook- at 48, to hold the bait on the tube – at 50 – see for example figure 6. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Yost or Richardson and add the spiral wrapped wire of Hinkson, so as to allow for the bait to be securely held to the hook.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yost or Richardson as applied to claim 1 above, and further in view of U.S. Patent No. 4,691,467 to Brimmer. Yost and Richardson do not disclose the tube is elastic and sized to stretch to receive

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and hold the bead near the tube end. Brimmer does disclose the tube – at 30, is elastic and sized to stretch and to receive and hold the bead – at 36, near the end of the tube – see for example figures 3-5 and column 3 lines 16-44. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Yost or Richardson and add the elastic tube of Brimmer, so as to allow for the components of the device to be securely held together.

Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yost or Richardson as applied to claim 1 above, and further in view of U.S. Patent No. 3,795,074 to Mantel.

Referring to claims 10-11, Yost and Richardson do not disclose a rotating attracting means being a blade mounted on the shaft. Mantel does disclose a rotating blade – at 38, attached to the shaft – at 10 – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Yost or Richardson and add the blade of Mantel, so as to allow for the lure to be more attractive to fish.

Response to Arguments

5. Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

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6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to bait holding fishing lures in general:

U.S. Pat. No. 2,054,976 to Gould – shows hook with bead and wire


U.S. Pat. No. 2,435,730 to Worden – shows lure with bead and shaft

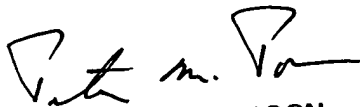
U.S. Pat. No. 4,163,339 to Worden – shows lure with bead and wire

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on 9hr compressed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David Parsley
Patent Examiner
Art Unit 3643


PETER M. POON
SUPERVISORY PATENT EXAMINER
1/4/05